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Federal Communications Commission
Office of the Secretary

WC 10-101 RECEIVED

JUL 30 1981

FCC
Office of the Secretary

1725 N STREET, N. W.
WASHINGTON, D. C. 20036

(202) 466-6250

July 30, 1981 DOCKET FILE COPY ORIGINAL

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JUL 31 3 46 PM '81
TARIFF DIVISION

Gary Epstein, Esquire
Chief, Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Assumption of pole attachment jurisdiction by the Arizona
Corporation Commission

Dear Mr. Epstein:

This letter is written on behalf of the Arizona Cable
Television Association ("ACTA") with regard to the recent
assumption of jurisdiction over the rates, terms and conditions
of pole attachments by the Arizona Corporation Commission
("ACC").

On July 22, 1981, the ACC decided, without notice, hearing,
or public comment, that it would assert jurisdiction over pole
attachments. Pursuant to that action, the ACC sent a letter
dated July 23, 1981, to the Commission purporting to provide
the "state certification" called for under Section 1.1414 of
the Rules.

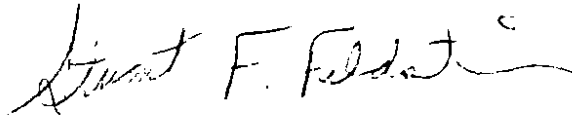
ACTA submits that the July 23 ACC letter is inadequate to
meet the requirements of Section 1.1414(d) because it contains
no citation as to "the law, regulation or other instrument
conferring such authority." Indeed, it would have been
difficult, if not impossible, for the ACC to have provided such
information since no proceeding was conducted, no documents
supporting jurisdiction appear to exist, and no written
decision has been issued by the ACC. Therefore, unless and
until the ACC can provide an adequately substantiated state
certification, the Commission must continue to maintain
jurisdiction over pole attachment disputes arising in the State
of Arizona.

Gary Epstein, Esquire
July 30, 1981
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Assuming, arguendo, that the ACC certification letter is deemed adequate, ACTA requests that the Commission not forward pending Arizona pole attachment complaint files to the ACC at this time. ACTA, together with certain individual cable companies, is challenging the ACC's assumption of jurisdiction in the Arizona courts. As part of that legal challenge ACTA will be seeking to enjoin the ACC's exercise of its jurisdiction pending the outcome of the litigation. Should an injunction be granted by the court in Arizona, regulatory jurisdiction would again be vested in the Commission. (The alternative would be a hiatus period when neither the Commission nor Arizona could exercise jurisdiction, a situation which clearly runs contrary to Section 224 of the Communications Act.) A decision on ACTA's injunction request can be expected within a short time period, therefore the Commission should await this outcome before formally turning over its Arizona complaint files to the ACC. This would be the more orderly method of proceeding.

Please contact the undersigned if there are any questions on this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Stuart F. Feldstein", with a stylized flourish at the end.

Stuart F. Feldstein
Counsel for Arizona Cable
Television Association

cc: Arizona Corporation Commission

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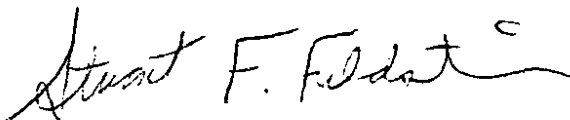
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